

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

	X
	:
SHATOYA WILLIAMS,	:
	:
Plaintiff,	21 Civ. 4112 (PAE) (JLC)
	:
-v-	<u>ORDER</u>
	:
FIREQUENCH INC. d/b/a FIRETRONICS,	:
	:
Defendant.	:
	:
	X

PAUL A. ENGELMAYER, District Judge:

A default judgment as to liability was entered on December 16, 2021 in favor of plaintiff Shatoya Williams against defendant Firequench Inc. (“Firequench”), which failed to answer or thereafter appear, notwithstanding having been validly served with the Summons and Complaint at the address on file with the New York Secretary of State. An inquest as to damages was thereafter undertaken by Magistrate Judge Cott, who, in a Report and Recommendation issued August 19, 2022, recommended awarding Williams \$142,421.45 in damages. On September 1, 2022, Firequench appeared for the first time in this action, Dkt. 25, and, on September 9, 2022, moved to vacate the default, Dkt. 30.

The Court is currently considering Firequench’s motion to vacate the default judgment entered against it. *Id.*; *see* Dkt. 35 (opposition to the motion). However, the Court would condition any vacatur of the default judgment on Firequench’s payment of all fees and costs plaintiff reasonably incurred in connection with pursuing the default judgment and the inquest. That is because these fees and costs would not have been incurred had Firequench updated its address with the Secretary of State, as required. The fees and costs in question would include

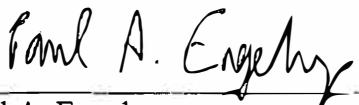
those entailed in preparing Williams's proposed findings of fact and conclusions of law and supporting filings. *See, e.g.*, Dkts. 22–23; *see also Pakter v. Janou Pakter, LLC*, No. 16 Civ. 4288 (PAE), 2017 WL 6048814, at \*1 (S.D.N.Y. Dec. 5, 2017), *opinion vacated on reconsideration*, No. 16 Civ. 4288 (PAE), 2018 WL 1635239 (S.D.N.Y. Apr. 3, 2018); *Murray Eng'g, P.C. v. Windermere Properties LLC*, No. 12 Civ. 0052 JPO, 2013 WL 1809637, at \*5 (S.D.N.Y. Apr. 30, 2013).

Accordingly, the Court directs plaintiffs' counsel to submit, by Tuesday, October 11, 2022, in the form of a sworn declaration, an accounting of the fees and costs reasonably incurred in preparation of those filings.

If Firequench still seeks vacatur of the default judgment, it must submit a sworn declaration by Tuesday, October 18, 2022, attesting to defendant's willingness to promptly upon vacatur of the default judgment to reimburse plaintiff for all of those reasonably incurred fees and costs. If Firequench is unwilling to do so, the Court will deny its motion to vacate the default judgment. If the defendant is willing to bear plaintiffs' reasonable costs, the Court will then give the motion prompt and full consideration.

Separately, Firequench's papers do not explain how Firequench ultimately became aware of this litigation and the default judgment against it, as prompted it to file to vacate the default judgment. The Court directs that Firequench, in its October 18, 2022 declaration, explain the means by which it learned of this lawsuit.

SO ORDERED.

  
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Paul A. Engelmayer  
United States District Judge

Dated: September 29, 2022  
New York, New York